

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ANTOINE LAMONT CULMER,

Plaintiff,

v.

WARNER BROS. RECORDS INC. and
ATLANTIC RECORDS,

Defendant.

Civil Action No. 2:20-cv-1683

Hon. Maureen P. Kelly

Hon. William S. Stickman IV

ORDER OF COURT

Pro se Plaintiff Antoine Lamont Culmer, who is incarcerated at Pennsylvania State Correctional Institution – Greene, brought this action to recover unpaid royalties from Warner Bros. Records Inc. and Atlantic Records. (ECF No. 1). Magistrate Judge Maureen P. Kelly issued a Report and Recommendation on December 2, 2020, recommending the Court dismiss Plaintiff's Complaint with prejudice pursuant to 28 U.S.C. § 1915(e)(2)(B). (ECF No. 10). Plaintiff was given until December 21, 2020 to file objections. (ECF No. 10). No objections having been filed, the Court hereby ADOPTS Magistrate Judge Kelly's Report and Recommendation as the opinion of the Court.

AND NOW, this 4th day of January 2021, IT IS HEREBY ORDERED that Plaintiff's Complaint is DISMISSED WITH PREJUDICE. The Court further holds that amendment would be futile as Plaintiff's allegations are fanciful and delusional.¹ *See In re Burlington Coat Factory*

¹ "An amendment is futile if it merely restates the same facts as the original complaint in different terms, reasserts a claim on which the court previously ruled, fails to state a legal theory, or could not withstand a motion to dismiss." 3 Moore's Federal Practice – Civil § 15.15[4] (2019).

Sec. Litig., 114 F.3d 1410, 1434 (3d Cir.1997) (a court may decide to deny leave to amend for reasons such as undue delay, bad faith, dilatory motive, prejudice, and futility). There are no facts upon which the Court could plausibly infer that the alleged deprivation of royalties was committed by a person acting under the color of state law sufficient to state a claim under 42 U.S.C. § 1983.

BY THE COURT:

A handwritten signature in black ink, appearing to read "W. S. Stickman IV", written over a horizontal line.

WILLIAM S. STICKMAN IV
UNITED STATES DISTRICT JUDGE